

Division 3. Air Resources Board

Chapter 5. Standards for Motor Vehicle Fuels

Subchapter 8. Clean Fuels Program

§ 2309. Responsibilities of Owner/Lessors of Selected Retail Clean Fuel Outlets.

(a) *Locations of required clean fuel outlets.*

(1) For each designated clean fuel, in determining the locations of required retail clean fuel outlets, an owner/lessor shall provide a reasonable geographical dispersion of the outlets and place the outlets in locations that are reasonably near the existing and anticipated areas of operation of low-emission vehicles that operate on the designated clean fuel, and are convenient to drivers of such vehicles. Any retail clean fuel outlet that was equipped to dispense a designated clean fuel as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy these criteria.

(2) At least eight months before the start of each year (by April 30 of the previous year), each owner/lessor who has received a notification pursuant to section 2307(e) indicating that s/he will be required to have in place additional retail clean fuel outlets for that year shall submit to the executive officer proposed locations for such outlets and optional locations equal to at least 20 percent off the proposed locations, identified by street address, ZIP code, and Universal Transverse Mercator (UTM) coordinates. The submittal shall include any outlets that are or may be constructively allocated to the owner/lessor pursuant to section 2308. Following submittal, the owner/lessor shall consult with designees of the executive officer, and with the CEC's executive officer or his or her designees, on the optimal locations for new retail clean fuel outlets.

(3) The owner/lessor shall notify the executive officer of the final locations of all new retail clean fuel outlets for the year, no later than five months before the start of the year (by July 31).

(b) *Requirements regarding facilities at selected clean fuel outlets at retail gasoline outlets.*

Each owner/lessor of a selected retail clean fuel outlet at a retail gasoline outlet shall, with respect to each such outlet:

(1) Locate the designated clean fuel dispenser(s) in a location substantially as accessible and visible to a customer entering the station as are the gasoline dispensers, and providing substantially the same convenience of ingress and egress as exists for the gasoline dispensers at the outlet; provided that any dispenser equipped prior to January 1, 1993 to dispense a designated clean fuel as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy this criterion.

(2) Ensure that the designated clean fuel dispensers are substantially as well-marked and as clearly identified as the gasoline dispensers with regard to the type of fuel.

(3) Maintain lighting which keeps the designated clean fuel dispenser area substantially as well-illuminated as the gasoline dispensing area when the outlet operates at night.

(4) Ensure that customers using designated clean fuel dispensers will have, within the same service mode (e.g. self serve or full serve), substantially the same access to services and facilities such as canopy coverage, air and water, vending, and restrooms as do customers purchasing gasoline, unless the owner/lessor has, in the preceding 12 months, demonstrated to the satisfaction of the executive officer that providing such a service or facility is prohibited by local ordinance or applicable safety codes.

(5) Prominently display directions on use of the clean fuel dispensing equipment.

(6) Maintain the designated clean fuel dispensing equipment in good operating condition.

(c) *Requirements regarding facilities at selected clean fuel outlets at which gasoline is not offered to the public.*

Each owner/lessor of a selected retail clean fuel outlet at which gasoline is not offered to the public shall, with respect to each such outlet: (1) Locate the designated clean fuel dispenser(s) in a location that is readily accessible from main streets and highways.

(2) Ensure that the designated clean fuel dispensers are available for public use during normal business hours without the use of a key or cardkey.

(3) Ensure that a customer is able to pay for his or her fuel purchase without establishment of an account with the outlet owner or operator.

(4) If the outlet is operated after dark, maintain commercially reasonable lighting levels to provide user safety.

(5) Prominently display directions on use of the clean fuel dispensing equipment.

(d) *Requirements regarding supply of designated clean fuels to selected retail clean fuel outlets.*

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(1) Whenever the operator of a selected retail clean fuel outlet requests that the owner/lessor of the outlet provide for the delivery, within a specified time not less than 72 hours from the request, of specified commercially reasonable quantities of the designated clean fuel to the outlet on commercially reasonable terms, the owner/lessor shall be jointly liable with the operator for any violations at the outlet of section 2310(a)(1) starting with the requested time of delivery and ending with the next delivery of commercially reasonable quantities of the clean fuel to the outlet, unless the owner/lessor does one of the following:

[i] supplies the specified quantity of designated clean fuel to the outlet, within the specified time, on commercially reasonable terms, or

[ii] identifies a third party willing to supply, within the specified time, the specified quantity of designated clean fuel to the outlet on commercially reasonable terms.

However, an owner/lessor's failure to satisfy the conditions set forth in [i] and [ii] shall not result in liability under this section if the owner/lessor demonstrates that s/he was prevented from satisfying the conditions by a natural disaster such as an earthquake or flood, an act of war or an act by a public enemy, a civil disorder or riot, the expropriation or confiscation of facilities or property, or the operation of law.

(2) Whenever an owner/lessor is required to submit a notification regarding final outlet locations to the executive officer pursuant to section 2309(a)(3), the notification shall include a description of the means by which the owner/lessor intends to comply with section 2309(c)(1). The description shall include, but need not be limited to, [i] a description of any facility that is or will be owned or leased by the owner/lessor for the production or importation of the designated clean fuel, including the throughput capacity of such facility; [ii] the identities of any third parties with whom the owner/lessor has or plans to have contracts to supply the designated clean fuel, and the minimum volumes of the designated clean fuel subject to such contracts; [iii] if the owner/lessor will not have a designated clean fuel production or import facility, or a contract for supply of the fuel, a description of the manner in which supply of the designated clean fuel will be arranged; [iv] a description, including location and capacity, of any facilities that are or will be owned or leased by the owner/lessor for the loading of the designated clean fuel into tank cars, vessels, or tank trucks; and [v] the identities of any parties with whom the owner/lessor has, or plans to have, contracts for the delivery of the designated clean fuel to the retail clean fuel outlets, and the facilities from which such parties will make such deliveries.

(e) *Annual reports regarding compliance with section 2302.*

(1) For each calendar year, each owner/lessor who is required to equip one or more retail gasoline outlets as a retail clean fuel shall submit to the executive officer by January 10 of the year a report containing the information set forth below regarding compliance with section 2302. The information shall be categorized by each designated clean fuel. The reports shall be executed in California under penalty of perjury.

(A) The street address of each of the owner/lessor's retail gasoline outlets claimed to be equipped as a retail clean fuel outlet to satisfy the requirements of section 2302.

(B) For each such outlet, the type of designated clean fuel dispensed at the outlet, the brand, trade, or other name under which the business at the outlet is conducted, and the name of the operator of the outlet.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

REFERENCE